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CASE NUMBER: 18-2-14129-0 SEA

STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT

<p>STATE OF WASHINGTON,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>FACEBOOK, INC.,</p> <p style="text-align: right;">Defendant.</p>	<p>NO.</p> <p>COMPLAINT FOR CIVIL PENALTIES AND FOR INJUNCTIVE RELIEF FOR VIOLATIONS OF RCW 42.17A</p>
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I. NATURE OF ACTION

The State of Washington (State) brings this action to enforce the state's campaign finance and disclosure law, RCW 42.17A. Defendant Facebook, Inc. (Facebook), an online social media corporation, failed to maintain and make available for public inspection documents and books of account specifying statutorily required information concerning political advertising sponsored through Facebook's online platform. On at least two occasions, Facebook failed to provide access to information required by law to members of the public. As a result, the State seeks relief under RCW 42.17A.765, RCW 42.17A.345, and WAC 390-18-050, including civil penalties, costs and fees, and injunctive relief.

II. PARTIES

2.1 Plaintiff is the State of Washington. Acting through the Washington State Attorney General, the State enforces the state campaign finance disclosure laws contained in RCW 42.17A.

2.2 Facebook is an online social media corporation and social networking service headquartered in Menlo Park, California. As the term is defined in RCW 42.17A.005(9),

1 Facebook is a commercial advertiser operating in the State of Washington. It accepted  
2 compensation for the placement of political advertising on its platform.

### 3 III: JURISDICTION AND VENUE

4 3.1 This Court has subject matter jurisdiction over the present case, in accordance  
5 with RCW 42.17A. The Attorney General has authority to bring this action pursuant to  
6 RCW 42.17A.765.

7 3.2 This Court has jurisdiction over Facebook, a commercial advertiser conducting  
8 business in the State of Washington. Facebook offered services and received payment from  
9 persons placing political ads in Washington during each election year since 2013. The acts and  
10 omissions complained of in this complaint took place, in whole or in part, in King County.

11 3.3 Venue is proper in this Court pursuant to RCW 4.12.

### 12 IV. FACTUAL ALLEGATIONS

13 4.1 RCW 42.17A declares as a matter of public policy “[t]hat political campaign  
14 and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is  
15 to be avoided.” RCW 42.17A.001(1). The statute further provides that the state’s campaign  
16 finance and disclosure law “shall be liberally construed to promote complete disclosure of all  
17 information respecting the financing of political campaigns . . . .” RCW 42.17A.001.

18 4.2 RCW 42.17A.005(9) defines a “commercial advertiser” as “any person who  
19 sells the service of communicating messages or producing printed material for broadcast or  
20 distribution to the general public or segments of the general public whether through the use of  
21 newspapers, magazines, television and radio stations, billboard companies, direct mail  
22 advertising companies, printing companies, or otherwise.”

23 4.3 RCW 42.17A.005(36) defines “political advertising” to include “any advertising  
24 displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or  
25 television presentations, or other means of mass communication, used for the purpose of  
26 appealing, directly or indirectly, for votes or for financial or other support or opposition in any

1 election campaign.”

2 4.4 RCW 42.17A.005(42)(a) defines “sponsor” for the “purposes of an  
3 electioneering communications, independent expenditures, or political advertising means the  
4 person paying for the electioneering communication, independent expenditure, or political  
5 advertising. If a person acts as an agent for another or is reimbursed by another for the  
6 payment, the original source of the payment is the sponsor.”

7 4.5 RCW 42.17A.005(35) defines “person” as “an individual, partnership, joint  
8 venture, public or private corporation, association, federal, state, or local governmental entity  
9 or agency however constituted, candidate, committee, political committee, political party,  
10 executive committee thereof, or any other organization or group of persons, however  
11 organized.”

12 4.6 RCW 42.17A.345 requires each commercial advertiser who has accepted or  
13 provided political advertising or electioneering communications during an election campaign  
14 to maintain documents and books of account that shall be open to the public for their  
15 inspection during normal business hours during the campaign and for a period of no less than  
16 three years after the date of the applicable election. The law entitles any person, without  
17 reference to or permission from the Public Disclosure Commission, to inspect a commercial  
18 advertiser's political advertising or electioneering communications documents and books of  
19 account. Pursuant to WAC 390-18-050, the documents and books of account shall specify:

20 (a) The name of the candidate or ballot measure supported or opposed or the name of  
21 the candidate otherwise identified;

22 (b) The name and address of the person who sponsored the advertising or  
23 electioneering communication;

24 (c) The total cost of the advertising or electioneering communication, how much of that  
25 amount has been paid, who made the payment, when it was paid, and what method of payment  
26 was used;

1 (d) Date(s) the commercial advertiser rendered service; and

2 (e) A description of the major work components or tasks that were required to provide  
3 the advertising or communications services.

4 4.7 Facebook sells advertising through its advertising platform, including political  
5 advertising. Accordingly, Facebook is a commercial advertiser as the term is used in RCW  
6 42.17A. As such, Facebook is required to comply with RCW 42.17A.345.

7 4.8 Since January 2008, candidates and political committees required to file  
8 campaign disclosure reports with the Public Disclosure Commission have reported \$3.1 million  
9 in payments related to political advertising on Facebook's online platform. These payments  
10 included approximately \$2.5 million paid through political consultants and other agents or  
11 intermediaries, and \$619,861 paid directly to Facebook.

12 4.9 As an example, during election year 2017, candidates and political committees  
13 reported making \$857,893 in payments related to political advertising on Facebook's online  
14 platform.

15 4.10 Facebook did not obtain or maintain all information required under  
16 RCW 42.17A.345 of commercial advertisers.

17 4.11 For example, Facebook did not obtain or maintain the names and addresses of  
18 all persons from whom it accepted political advertising.

19 4.12 Additionally, as an example, Facebook did not maintain the total cost and  
20 manner of payment for services it provided for political advertising.

21 4.13 Facebook did not make open for public inspection during its normal business  
22 hours during any campaign from 2013 through the present documents and books of account  
23 containing information on political advertising for which it accepted payment and ran on its  
24 platform.

25 4.14 For example, on November 30, 2017, Eli Sanders, Associate Editor of the  
26 biweekly Seattle newspaper *The Stranger*, hand-delivered a letter to Facebook at its Seattle

1 office, seeking information concerning all political advertising Facebook accepted for the  
2 August 1, 2017 primary election and November 7, 2017 general election in the City of Seattle.  
3 Mr. Sanders' request cited a Seattle municipal law requiring commercial advertisers to produce  
4 information that is also required to be produced under RCW 42.17A.345.

5 4.15 Mr. Sanders corresponded with Facebook seeking information, including a  
6 December 27, 2017 email from Mr. Sanders to Facebook, copied to Facebook's outside  
7 counsel, in which Mr. Sanders noted that Washington law imposes requirements on  
8 commercial advertisers similar to the relevant Seattle ordinance. Mr. Sanders noted that these  
9 requirements apply to advertising sponsored in all state and local campaigns in Washington.

10 4.16 At no point did Facebook provide information concerning political advertising  
11 in Seattle municipal elections to Mr. Sanders in response to his November 30, 2017 request.

12 4.17 Facebook states that prior to May 2018, it did not collect the physical mailing  
13 address of persons who paid to advertise on Facebook.

14 4.18 On April 8, 2018, Conner Edwards contacted Facebook's outside counsel via  
15 email and requested an appointment on April 12, 2018 to inspect Facebook's documents and  
16 books of account related to political advertising. Mr. Edwards cited RCW 42.17A.345 as the  
17 basis of his request. Facebook's counsel acknowledged Mr. Edwards' email on April 10, 2018,  
18 but did not promise that his request for an inspection on April 12, 2018 would be honored.

19 4.19 On April 12, 2018, Mr. Edwards visited Facebook's Seattle office as intended.  
20 Facebook did not provide Mr. Edwards access to any documents and books of account  
21 concerning political advertising placed on Facebook's online platform.

22 4.20 On April 11, 2018, the Attorney General received a citizen action notice from  
23 Mr. Edwards concerning Facebook's failure to provide public access to the information  
24 required under RCW 42.17A.345.

25 4.21 In reports filed with the Public Disclosure Commission, candidates and political  
26 committees reported payments to Facebook for political advertising supporting or opposing

1 selected state and local candidates.

2 4.22 During the 2013 election, sponsors of political advertising confirmed a total of  
3 \$129,099 in payments to Facebook for political advertising.

4 4.23 During the 2014 election, sponsors of political advertising confirmed a total of  
5 \$310,165 in payments to Facebook for political advertising.

6 4.24 During the 2015 election, sponsors of political advertising confirmed a total of  
7 \$147,689 in payments to Facebook for political advertising.

8 4.25 During the 2016 election, sponsors of political advertising confirmed a total of  
9 \$1,153,688 in payments to Facebook for political advertising.

10 4.26 During the 2017 election, sponsors of political advertising confirmed a total of  
11 \$857,893 in payments to Facebook for political advertising.

12 4.27 To date, during the 2018 election, sponsors of political advertising confirmed a  
13 total of \$74,687 in payments to Facebook for political advertising.

## 14 V. CLAIMS

15 The State re-alleges and incorporates by reference all the factual allegations contained  
16 in the preceding paragraphs, and based on those allegations, makes the following claims:

17 5.1 First Claim: The State reasserts the factual allegations made above and further  
18 asserts that Defendant Facebook Inc., in violation of RCW 42.17A.345, failed to maintain  
19 documents and books of account with the statutorily required information for political  
20 advertising sponsored in Washington state elections from 2013 through 2018. The State further  
21 alleges that Defendant Facebook Inc. failed to make such documents and books of account  
22 open for public inspection during normal business hours for a period of three years following  
23 the applicable election.

24 5.2 Second Claim: The State reasserts the factual allegations made above and  
25 further asserts that the actions of Defendant Facebook, Inc. stated in the above claims were  
26 negligent and/or intentional.

VI. REQUEST FOR RELIEF

WHEREFORE, the State requests the following relief as provided by law:

6.1 For such remedies as the court may deem appropriate under RCW 42.17A.750, including but not limited to imposition of a civil penalty, all to be determined at trial;

6.2 For all costs of investigation and trial, including reasonable attorneys' fees, as authorized by RCW 42.17A.765(5);

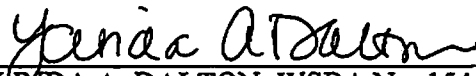
6.3 For temporary and permanent injunctive relief, as authorized by RCW 42.17A.750(1)(h);

6.4 In the event the Court finds Facebook intentionally violated state campaign finance disclosure laws, order any penalty assessed against Facebook to be trebled as authorized by RCW 42.17A.765(5); and

6.5 For such other legal and equitable relief as this Court deems appropriate.

DATED this 4th day of June, 2018.

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